

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Santosh Prakash	Team: Squad #02	CCRB Case #: 201906680	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/28/2019 8:20 PM	Location of Incident: East 183rd Street and Ryer Avenue	18 Mo. SOL 9/14/2021	Precinct: 46		
Date/Time CV Reported Mon, 07/29/2019 7:41 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 07/29/2019 7:41 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Francy Monestime	00770	946018	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Tamarra Wynaar	15448	966911	043 PCT
2. DT3 Joel Ayala	02912	954509	GVSD Z2
3. POM Edmundo Rivera	00696	955382	NARCBMN
4. POM Keith Figueroa	28992	952729	GVSD Z2
5. SGT Amadeo Oktrova	01914	949413	NARCBMN
6. LT Anderson Ortiz	00000	949424	WARRSEC
7. POM Brian Bollettieri	06992	954558	032 PCT
8. POM Daniel Alexis	00161	959450	046 PCT
9. SGT Melissa Davis	01781	950919	PSA 7
10. POF Elian Flores	07018	956650	032 PCT
11. POM Jonathan Delacruz Zapata	22672	957524	032 PCT
12. POM Luis Sotomayor	21209	959262	046 PCT
13. POF Vlora Gjeka	10310	965138	046 PCT
14. LT Kevin Kenny	00000	921461	PBBX SU

Officer(s)	Allegation	Investigator Recommendation
A . LT Francy Monestime	Abuse: Sergeant Francy Monestime stopped § 87(2)(b)	
B . LT Francy Monestime	Force: Sergeant Francy Monestime used physical force against § 87(2)(b)	
C . LT Francy Monestime	Abuse: Sergeant Francy Monestime arrested § 87(2)(b)	
D . LT Francy Monestime	Untruthful Stmt.: Sergeant Francy Monestime provided a false official statement to the CCRB.	

Case Summary

On July 29, 2019, § 87(2)(b) filed the following complaint via the CCRB's call processing system, on behalf of her then-11-year-old son § 87(2)(b). § 87(2)(b) was not a witness to the incident.

On July 28, 2019, at approximately 8:20 PM, at the Slattery Playground located at East 183rd Street and Ryer Avenue in the Bronx, Sergeant Francy Monestime of the 43rd Precinct came across § 87(2)(b) while responding to a gun-related police incident in the vicinity. Upon seeing him running, Sergeant Monestime gave pursuit and stopped § 87(2)(b) by tackling him to the ground (**Allegation A: Abuse of Authority – Stop**, § 87(2)(g)). **Allegation B – Physical Force – Force**, § 87(2)(g). Sergeant Monestime soon learned that § 87(2)(b) was not involved with the nearby incident but ultimately directed his partner Police Officer Tamarra Wynaar of the 43rd Precinct to remove him to the 46th Precinct stationhouse (**Allegation C: Abuse of Authority – Arrest**, § 87(2)(g)). Approximately an hour later, § 87(2)(b) was released to § 87(2)(b) custody. He was not charged with a crime or summonsed.

The investigation determined that Sergeant Monestime provided a false official statement to the CCRB (**Allegation D: Untruthful Statement – False Official Statement**, § 87(2)(g)).

A total of 20 Body-Worn Camera (BWC) footage videos were obtained from the BWCs of 15 officers (Board Review 17-28) for this case and for CCRB case # 201907039, which addresses allegations involving unrelated victims that occurred at the same time and location as this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Francy Monestime stopped § 87(2)(b).

Allegation (B) Force: Sergeant Francy Monestime used physical force against § 87(2)(b).

Allegation (C) Abuse of Authority: Sergeant Francy Monestime arrested § 87(2)(b).

§ 87(2)(b) was interviewed in the presence of his mother § 87(2)(b) on August 2, 2019 (Board Review 03). § 87(2)(b)

§ 87(2)(b) Sergeant Monestime (since promoted to Lieutenant Monestime) was interviewed on January 15, 2020 (Board Review 04). Police Officer Wynaar was interviewed on September 27, 2020 (Board Review 08). Detective Joseph Ayala, Police Officer Edmundo Rivera, Lieutenant Kevin Kenny, and Lieutenant Anderson Ortiz were interviewed for CCRB case # 201907039 but provided information in their interviews that were relevant to the context of this case (Board Review 11 – 14).

The following facts are undisputed: On July 28, 2019, at approximately 8:00 PM, a large number of officers responded to a firearm arrest outside 2322 Ryer Avenue, a residential building that adjoins a public park known as Slattery Playground. At the time, § 87(2)(b) was with unidentified friends in the Playground's basketball courts, which lie facing Ryer Avenue between East 183rd Street and Field Place (see Board Review 01: Annotated Map & Location Photographs). While at the courts, § 87(2)(b) observed an encounter occurring outside 2322 Ryer Avenue, between officers – identified by the investigation as Detective Ayala, Police Officer Rivera, and Lieutenant Kenny – and a group of young adult males (Allegations specific to that encounter are being investigated under CCRB case 201907039). § 87(2)(b) left the basketball courts to better see what was happening. Once outside, § 87(2)(b) saw the encounter become physical; with bottles thrown at the officers, who in turn radioed all units for backup. Multiple police vehicles then

began responding to the area, converging along the length of Ryer Avenue. As this occurred, § 87(2)(b) ran back into the basketball courts. Either shortly before or at about the same time as this happened, Sergeant Monestime pulled up to the corner of East 183rd Street and Ryer Avenue in response to the radioed request. Upon seeing § 87(2)(b) running, Sergeant Monestime chased him. Sergeant Monestime ran after § 87(2)(b) through the basketball courts to the rear area of the Playground, where he eventually stopped him with a forcible takedown. After handcuffing and detaining him, Sergeant Monestime came to ascertain that § 87(2)(b) was an uninvolved witness to the earlier incident and not a suspect or perpetrator. At this time Sergeant Monestime directed Police Officer Wynaar to remove § 87(2)(b) to the 46th Precinct stationhouse, to contact his guardian, and to release him to their custody. After being lodged for approximately an hour at the stationhouse, § 87(2)(b) was released to § 87(2)(b). He was not charged with a crime or summonsed.

§ 87(2)(b) who was approximately 5'3" tall and 113 pounds at the time of his CCRB interview and 11-years old at the time of the incident, stated that he was within the fenced perimeter of the basketball courts when he first became aware of the encounter outside 2322 Ryer Avenue, where about three officers were in a tense stand-off with a group of male teenagers whom he did not know. As the stand-off seemed to be escalating, § 87(2)(b) grew curious and exited the courts through a gate at the northeast corner of Ryer Avenue and East 183rd Street (marked 'Entrance 1' in Board Review 01). § 87(2)(b) stayed in proximity to this corner and watched as the officers and civilians began to engage physically, until the males started throwing bottles, forcing the officers to retreat back into their vehicle.

Soon thereafter, as multiple police vehicles responded to the scene, some of the males tried to flee by running south on Ryer Avenue, passing by § 87(2)(b) without interaction. At or about this time, for reasons he could not articulate, § 87(2)(b) became fearful and abruptly ran back into the basketball courts through the corner gate. As § 87(2)(b) ran through the courts toward the rear of the Playground, he was initially not aware of anyone running after him or ordering him to stop. However, as he came to the rear of the playground, § 87(2)(b) heard someone running behind him. As he halted to turn around, before he could react in any manner, Sergeant Monestime made contact with § 87(2)(b) and tackled him to the ground, falling top him in the process. Sergeant Monestime then handcuffed and escorted § 87(2)(b) back to the northeast corner of Ryer Avenue and East 183rd Street. § 87(2)(b) tried to tell Sergeant Monestime that he had nothing to do with the earlier incident but he was still ultimately transported to the 46th Precinct stationhouse, where he was lodged in the juvenile room and handcuffed to a bench. While there, two unidentified officers came to speak with § 87(2)(b) without anyone else around, and asked him if he knew the individuals who had fought with the officers. § 87(2)(b) told them that he did not. The officers then obtained § 87(2)(b) contact information and left without interacting with § 87(2)(b) again. As a result of the takedown, § 87(2)(b) sustained abrasions to his right knee and right elbow but did not seek medical attention (Board Review 03).

Sergeant Monestime, who stands 6'1" tall and weighs 185 pounds, recalled very little about the radio transmission that brought him to the corner of Ryer Avenue and East 183rd Street. He believed that the communication was from officers in an active foot-pursuit of subject(s) possibly armed with firearms. Sergeant Monestime did not recall if further information was relayed, such as the suspects' physical descriptions or direction of flight. Sergeant Monestime stated that when he and Police Officer Wynaar first pulled up to the corner, he observed § 87(2)(b) running south down Ryer Avenue, in his direction, with several officers in pursuit ordering him to stop. Seeing no other police activity in the vicinity and no other civilians running, Sergeant Monestime assumed that § 87(2)(b) was somehow involved with the incident that had brought him there. When he exited his vehicle to intercept him, § 87(2)(b) dashed into the basketball courts through the

corner gate. Sergeant Monestime immediately went after § 87(2)(b) chasing him through the courts and instructing him to stop. § 87(2)(b) kept running until Sergeant Monestime caught up to him at the rear of the Playground. Once within reaching distance, Sergeant Monestime tackled § 87(2)(b) from behind to the ground, falling on him in the process. Sergeant Monestime stated that besides § 87(2)(b) flight there was nothing else suspicious about his conduct, gait, motions, appearance, or clothing; he observed nothing whatsoever to indicate the presence of a concealed firearm. Sergeant Monestime though still believed that a take-down was necessary given the circumstances and the information available to him at the time; he stated it was the most reasonable way to safely apprehend a possibly armed suspect who had failed to stop running.

Sergeant Monestime was the closest officer to § 87(2)(b) while chasing him but was not certain if the other officers initially pursuing § 87(2)(b) – none of whom he could identify – had followed him into the Playground, or caught up with him afterwards. He did not know if Police Officer Wynaar had followed him either. Sergeant Monestime did not recall if any information, verbal or otherwise, was exchanged between him and the pursuing officers at any point during the incident – whether before § 87(2)(b) ran into the basketball courts, or during the chase to the Playground rear, or at any point after § 87(2)(b) apprehension. Sergeant Monestime never saw these officers again after apprehending § 87(2)(b) he acknowledged that he never attempted to find them at the scene and that he never came to learn why they were pursuing § 87(2)(b) in the first place.

Sergeant Monestime escorted § 87(2)(b) back to the corner of Ryer Avenue and East 183rd Street after handcuffing him. He did not recall questioning § 87(2)(b) who insisted that he was innocent. During this time, Sergeant Monestime was not apprised of any new information as to what exactly had transpired and did not know if any suspects were still being pursued or if arrests had been made. After inquiring with several detectives at the scene, he was informed that § 87(2)(b) was not a party to the incident. Sergeant Monestime could not identify these detectives or elaborate on the specifics of their conversation or describe what their role might have been at the scene. However, because they ruled out § 87(2)(b) as being involved, Sergeant Monestime came to conclude that he had no reason to detain him any further.

However, at about the same time he reached this determination, a general order was issued to all personnel at the scene to clear the area and remove any individuals in custody to a stationhouse. Sergeant Monestime said the order came from a thin white male in a white uniform, about 35 to 45 years old, and possibly ranked Captain, but could not identify him by name or command. Sergeant Monestime could not further describe how the order was broadcasted. Because it was issued by a superior, Sergeant Monestime decided to comply with the order and did not release § 87(2)(b) as he had intended. Without discussing § 87(2)(b) noninvolvement with anyone else, Sergeant Monestime instructed Police Officer Wynaar to remove § 87(2)(b) to the 46th Precinct stationhouse, to contact his guardian, and to release him to their custody. Furthermore, Sergeant Monestime stated that he actually could not have released § 87(2)(b) at the scene even if no removal order was issued because Departmental guidelines mandated that minors in custody could only be released to a guardian, even if they had not committed an offense. Sergeant Monestime acknowledged that he made no independent efforts to contact § 87(2)(b) parents or guardians prior to having him removed to the stationhouse. He never considered transporting § 87(2)(b) home or to another family residence.

Sergeant Monestime's memo book entry regarding the incident (Board Review 05) is copied below verbatim [sic]:

10-85 of a firearm. Came over division radio confirmed because it was UMOS chasing suspect(s)

armed with firearms. Radio chatter was unclear and could not ascertain clear descriptions. Upon arrival, observed subject flee police from scene into a park. Exited vehicle and engaged subject in a foot pursuit. Subject refused to stop and was forcibly taken down to the ground. Subject because he was fleeing from immediate vicinity of a violent crime which gave me reasonable cause to believe he was a suspect in said crime. Attempted to conduct investigation on scene but large agitated crowd began to surround area. Though investigation on scene was suggesting subject may not have been involved in crime, Captain on scene ordered all UMOs to clear out and to take subject (along w/ other arrested individual) to s/house. Additionally, subject's mother/guardian was not on scene and because of age (11 y.o.) we could not ROR him. Instructed Police Officer Wynaar to release him to his mother/guardian upon her arrival.

Sergeant Monestime also prepared a UF-250 report (Board Review 06) and a Threat Resistance Injury report (Board Review 07). The UF-250 narrative and the TRI information – which includes a photograph of § 87(2)(b) knee abrasion – is consistent with his memo book entry and interview statement. Sergeant Monestime stated that he was unable to record the incident on his BWC because it fell off his person at the very beginning when he was first exiting his vehicle.

Police Officer Wynaar did not recall exactly where on Ryer Avenue they pulled up to but saw that about fifty officers were already at the scene. Numerous civilian bystanders were also dispersed through the area, as well as children playing in the park. As soon as they arrived, Sergeant Monestime exited the vehicle and ran into the Playground and through the basketball courts within, without saying what he was doing or where he was going. Police Officer Wynaar began to follow Sergeant Monestime but had to stop to assist another officer whose BWC had fallen to the ground. Once the officer's BWC was secured, Police Officer Wynaar continued in the direction Sergeant Monestime had headed – the rear play area behind the basketball courts. When she got there, Sergeant Monestime was on the ground with § 87(2)(b) and restraining him with handcuffs. Police Officer Wynaar did not know what had caused Sergeant Monestime to engage § 87(2)(b) and she never came to learn any additional information at any point after the incident. Police Officer Wynaar did not recall observing any other officers pursuing anyone on foot at the scene at any point in time.

Soon after § 87(2)(b) apprehension, Police Officer Wynaar became aware of several white-uniformed superiors instructing all officers at the scene to clear the area. Police Officer Wynaar did not know who the ranking officers were. She did not recall where they were situated, or how many were present, or through what means their order was relayed. Police Officer Wynaar did not recall if the order also directed that all individuals in custody be removed to a stationhouse. At Sergeant Monestime's direction, Police Officer Wynaar proceeded to transport § 87(2)(b) to the 46th Precinct stationhouse, where she uncuffed and put him in the juvenile room. As instructed by Sergeant Monestime, Police Officer Wynaar contacted § 87(2)(b) and released § 87(2)(b) to her when she arrived. § 87(2)(b) was never questioned about his knowledge of the incident while he was at the stationhouse, by herself or anyone else. She also denied keeping him handcuffed while waiting.

The 46th Precinct's command log and prisoner holding pen roster show that § 87(2)(b) was lodged at 8:30 PM and released at 9:13 PM (Board Review 10).

Detective Ayala, Police Officer Rivera, and Lieutenant Kenny all provided a consistent account of the encounter as it developed into an arrest: in substance, the officers observed a group of young males smoking marijuana outside 2322 Ryer Avenue; upon approaching and engaging the males, Police Officer Rivera noticed the outline of a firearm under the waistband of one of the males, identified by the investigation as § 87(2)(b). Upon frisking § 87(2)(b) and recovering the firearm, Police Officer Rivera placed § 87(2)(b) under arrest. Police Officer Rivera, Detective

Ayala, and Lieutenant Kenny all stated that the scene erupted after § 87(2)(b) arrest: the other males in the group surrounded the officers as they were placing § 87(2)(b) into their vehicle; yelling and screaming, some began kicking the sides of the vehicle while others jumped up on the trunk or bumper; a bottle was thrown into the vehicle and almost struck Lieutenant Kenny; additional bottles hit the vehicle itself. Because they were outnumbered, Detective Ayala radioed for back up, relaying it over as a “10-85.” Upon securing § 87(2)(b) inside the vehicle, the officers were then able to drive down to the other end of the block – the corner of East 183rd Street and Ryer Avenue – where officers had already begun responding. At this point, the officers collectively returned to 2322 Ryer Avenue and began effecting arrests; this included Lee Delgado, Jr., who Detective Ayala pointed out to the officers.

Police Officer Rivera and Lieutenant Kenny both stated that multiple members of the aggressing group fled the scene as back-up arrived, and that responding officers gave chase to some of these individuals. Lieutenant Anderson Ortiz added that when he arrived on scene, he saw several uniformed and plainclothes officers pursuing approximately ten males running south on Ryer Avenue. None of the three officers were involved in these foot pursuits and none could provide any further details. Detective Ayala, Police Officer Rivera, Lieutenant Kenny, and Lieutenant Ortiz made no statements to suggest that they had any knowledge of § 87(2)(b) encounter with Sergeant Monestime.

The UF-250 report (Board Review 15) and the arrest report narratives (Board Review 16) prepared by Police Officer Rivera about § 87(2)(b) are both consistent with the officers’ testimony.

When requested in this case, the NYPD provided BWC footage from four officers – Sergeant Monestime and three other officers whose recordings were not relevant. Sergeant Monestime's BWC was activated at 8:32 PM for a total period of 41 seconds with the camera angled at his face; the footage captures no aspect of the incident, nor anything notable about the surroundings (Board Review 17). Sergeant Monestime stated that the recording was likely activated when he eventually retrieved his BWC from the ground where it was fallen, sometime after § 87(2)(b) removal to the stationhouse (Board Review 04).

No footage was recovered from Police Officer Wynaar's BWC – she believed she was not equipped with a BWC at the time of the incident. However, the NYPD BWC Deployment Roster for June 13, 2019, indicates that she was first assigned a BWC on about this date, approximately a month and a half before this incident (Board Review 39).

When requested in case 201907039, the NYPD produced sixteen video files from eleven officers' BWCs (Board Review 18), including: Detective Ayala (Board Review 19); Police Officer Rivera (Board Review 20); Police Officer Brian Bollettieri, Police Officer Elian Flores, Police Officer Jonathan Delacruz-Zapata, Police Officer Melissa Davis, and Police Officer Daniel Alexis (Board Review 21-26).

Detective Ayala appears to have activated his BWC immediately after he and Police Officer Rivera recovered the firearm from somebody in the group – approximately seven black males in white shirts, standing outside the building at 2322 Ryer Avenue. A stand-off between the officers and the group then escalates quickly and the parties engage each other physically; exactly who does what is unclear and largely undiscernible. At approximately 1:35 into the footage, Detective Ayala radios a request for back-up and specifically names the building address as their location. Between 2:00 and 3:00 minutes in the footage, the officers retreat back into their vehicle, as unidentifiable objects begin hitting the vehicle. Detective Ayala and Police Officer Rivera drive down the block and exit near the corner of East 183rd Street and Ryer Avenue, where they are met by several uniformed

officers. Detective Ayala and Police Officer Rivera then return to the building with their back-up and begin forcibly apprehending the target males (3:20 – 3:55). At least one of these individuals, a black male wearing a white t-shirt and a bright green cap, manages to flee down East 183rd Street. However, Detective Ayala’s footage shows the officers quickly gain control over the scene: individuals appear to be in handcuffs; no one appears to be evading, resisting, or fleeing; and there is no communication between the officers about anyone being pursued.

At approximately 04:25 in the recording, Detective Ayala repeatedly announces over radio that the armed subject is under arrest and that no further units are necessary. The same message is conveyed by other personnel as time progresses. At 4:47, Detective Ayala radios someone to advise that, “We’re good – we got the perp and the firearm.” He conveys the same to multiple officers around him and advises Central Dispatch again that no further units are required at the scene. As he does so, Detective Ayala paces past the fenced basketball courts along Ryer Avenue (frame left) and re-enters his vehicle still standing near the intersection: while a large number of police vehicles and officers remain in the area, Detective Ayala’s BWC records no directed police activity in the area – and no sign of an active foot pursuit – whether from within the Playground, or in the vicinity of the entrance gate at the intersection. Upon re-entering his vehicle (still standing near the Ryer Avenue intersection), Detective Ayala briefly converses with an unidentified white-uniformed officer, who appears to relay over radio (off-camera): “That was one and the same, one under, absolutely no further.” (07:20) Detective Ayala confirms to the officer that they have the perpetrator and the gun in custody. The unidentified officer then appears to point across the street and asks Detective Ayala, “That was your 85 too over there, right?” (7:25) Detective Ayala states, “No, no – not over there no.” The driver of the vehicle (off-camera) then states, “I think that was all one and the same, they started chasing after people [inaudible].” (7:26-7:33) The officers then leave the scene without any further interactions (Board Review 19).

Police Officer Rivera’s BWC footage largely mirrored Detective Ayala’s (Board Review 20). No footage was recovered from Lieutenant Kenny’s BWC, and Lieutenant Ortiz’s footage covered nothing relevant.

BWC footage obtained from five of the officers who first approach Sergeant Monestime and § 87(2)(b) as Sergeant Monestime apprehends him, Police Officer Bollettieri, Police Officer Flores, Police Officer Delacruz Zapata, Police Officer Davis, and Police Officer Alexi, together show all five of them: approaching the scene in two vehicles, heading east on East 183rd Street Avenue past the basketball courts and exiting at the intersection of Valentine Avenue (see Board Review 01: Annotated Map & Location Photographs, marked ‘Entrance 2’); and encountering § 87(2)(b) on the ground face-down with Sergeant Monestime on top of him. Another female officer identified as Police Officer Wynaar appears to assist Sergeant Monestime as he handcuffs § 87(2)(b). Bystanders approach the scene and inform the officers that § 87(2)(b) had nothing to do with the arrests. Within several minutes, Sergeant Monestime escorts § 87(2)(b) from the rear of the Playground, through the basketball courts, and towards the gate onto East 183rd Street (Board Review 21-26).

None of the BWC recordings show any police action or dialogue corroborating Sergeant Monestime’s account of an initial pursuit by fellow officers. While the recordings show upwards of seven white-uniformed males at the scene, none of them appear to be in clear command of the scene and none are captured on video issuing orders concerning those in custody (Board Review 18-26).

The EVENT documentation for the incident, logged under ICAD # § 87(2)(b) charts the timeline of the initiating street encounter outside 2323 Ryer Avenue and the precipitating arrest (Board Review). At 8:13 PM, an Anti-Crime officer reports a “male with a gun” at “Ryer [Avenue]/

Field [Place].” At 8:14 PM, a transmission states, “183/Ryer, Field [Place] – firearm recovered.” Between 8:15 PM and 8:16 PM, multiple transmissions state, “No shots fired,” and, “No further units” required. At 8:17 PM, a transmission states, “One in custody [by Anti-Crime] – 184th [Street] / Valentine [Avenue].” At 8:23 PM, the 46th Precinct’s Commanding Officer relays, “3 under in regards.” Between 8:23 PM and 8:24 PM, multiple transmissions refer to canvassing being done at the scene. There is nothing in the Event to indicate any communications implying an active foot pursuit. There is nothing in the Event regarding the removal of those in custody from the scene (Board Review 29).

An officer may stop an individual if they have reasonable suspicion that the person has committed or is committing a crime (People v De Bour, 40 N. Y.2d 210 [1976]; Board Review 31).

Flight alone, or even in conjunction with circumstances that might justify a police request for information, is insufficient to provide reasonable suspicion to justify pursuit (which is tantamount to a stop) (People v Holmes, 81 NY2d 1056 [1993]; Board Review 32).

Under the “fellow officer rule,” an officer lacking personal knowledge to establish probable cause or reasonable suspicion may act on “the direction of or as a result of communication with...a fellow officer.” However, the originating source or sender must be in possession of information sufficient to constitute probable cause. The fellow officer rule is diminished when the evidence does not establish that the receiving officer “actually received any information from another officer” with requisite knowledge...” (People v Powell, 101 A.D.3d 756 [2012]; Board Review 33)

Per NYPD Patrol Guide (P.G.) Procedure 221-01, force may be used by an officer when it is reasonable to ensure the safety” of another officer or third party, “or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody.” A use of force must be reasonable under the circumstances (P.G. Procedure 221-01; Board Review 34).

Per P.G. Procedure 212-11, the authority to detain a suspect ends when the task tied to the reason for the stop are completed or reasonably should have been completed. Once that authority ends, officers may not “transport or otherwise move the suspect from the location where they are stopped.” An officer must “release the person immediately after completing the investigation if probable cause to arrest does not exist” (P.G. Procedure 212-11; Board Review 35).

Patrol Guide Procedures on the treatment of juveniles in custody, specifically P.G. 215-09, 11, 12, 17, and 21) do not create any non-exigent exceptions to P.G. 212-11 and do not require the release of a minor from custody to their guardian (P.G. Procedures 215-09, 215-11, 215-12, 215-17, 215-21; Board Review 36).

In Dunaway v. New York, 442 U.S. 200 (1979) (Board Review 30), the court ruled that, “Detention for custodial interrogation regardless of its label intrudes so severely on interests protected by the Fourth Amendment as to necessarily trigger the traditional safeguards against illegal arrest,” namely the requirement of probable cause. The circumstances which made the custodial detention in Dunaway indistinguishable from a traditional arrest were that the detained person was taken from a home, transported to the stationhouse in a police vehicle and placed in an interrogation room without being advised that he was free to leave.

Sergeant Monestime's account of what he first observed at the scene — that unidentified officers were chasing § 87(2)(b) down Ryer Avenue — was neither corroborated by any video or documentary evidence, nor supported by any other officer testimony. On the contrary, Sergeant

Monestime's operator, Police Officer Wynaar, who arrived at the scene with him in the same vehicle, did not recall seeing any initial foot pursuit, and the responding officers' BWC footage shows no other units in the general area of the takedown. Additionally, Sergeant Monestime's own statements regarding the pursuing officers — that he never saw them again once he apprehended § 87(2)(b) and that he never sought to find them or learn why they were after him — were not consistent with the logic that he was merely assisting fellow officers engaged in an active chase. Besides the flight, Sergeant Monestime had no other reason — whether independently acquired or received from a fellow officer or radio transmission — to suspect § 87(2)(b) of any criminality or tie him to the individuals whom officers had arrested outside 2322 Ryer Avenue. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

As discussed, the EVENT documentation and the BWC footage show that the initial relay of a "man with a gun" was not followed by any subsequent transmissions about additional armed suspects; rather, within minutes of that relay, all further communications stressed that both the suspect and the firearm were in custody and that no further units were needed. Sergeant Monestime saw nothing to indicate that § 87(2)(b) was carrying a concealed weapon. Further, that he was within grabbing distance before tackling him stands to reason that he could have stopped § 87(2)(b) without tackling him. Considering these facts, combined with the physical differential between § 87(2)(b) and Sergeant Monestime — a 5'3" tall, 113-pound 11-year-old, and a 6'1", 186-pound adult § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Finally, the investigation found no evidence to corroborate Sergeant Monestime's statements that an unidentified Captain ordered the removal of all detainees to the stationhouse. The BWC footage and the EVENT documentation show no communications to this effect. And Police Officer Wynaar, while present with Sergeant Monestime during the time-period in question, recalled no such instructions. Furthermore, Sergeant Monestime's failure to document or recall the Captain's name or command provided the investigation with no opportunity to independently verify this alleged order. Moreover, even if the order was given, by that point in the incident, Sergeant Monestime was already obligated to act on what he had confirmed — § 87(2)(b) non-involvement — by immediately releasing him from custody. Rather than rectify his error, he compounded his mistaken stop and detainment of § 87(2)(b) first by holding him in handcuffs longer than necessary, and then by further prolonging his unlawful detainment by ordering his transportation to the stationhouse. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation D: Sergeant Francy Monestime provided a false official statement to the CCRB.

P.G. Procedure 203-08 prohibits officers from intentionally making a false official statement regarding a material matter. "Examples of circumstances in which false statements may arise include lying under oath during a civil, administrative, or criminal proceeding" such as an interview

conducted by the Civilian Complaint Review Board. A false official statement may arise when an officer creates a “false description of events” (Board Review 37).

As discussed under Allegation A, Sergeant Monestime’s assertion that officers were already pursuing § 87(2)(b) was not credible given the gaps and inconsistencies in his testimony – he did not know if the officers followed him into the Playground, he did not recall what became of them after § 87(2)(b) apprehension, and he made no attempts to find them or ascertain why they had been pursuing him. Furthermore, the five responding officers’ BWC footage do not show any officers beside Sergeant Monestime and his operator, Police Officer Wynaar, in the immediate area of the apprehension of § 87(2)(b) or in the basketball courts in the background prior to the arrival of these officers. The videos also show that, though these officers were the first, beside Sergeant Monestime and Police Officer Wynaar, to arrive at the location of § 87(2)(b) apprehension, they were not involved in an earlier pursuit of § 87(2)(b) prior to Sergeant Monestime’s apprehension of him.

During his CCRB interview, Sergeant Monestime was asked to review footage from Police Officer Davis’s BWC, showing the responding officers entering the Playground through the rear entrance on East 184th Street, and converging at the site of § 87(2)(b) takedown (00:45 - 00:65 in the video in Board Review 23). When Sergeant Monestime was asked if he could identify himself anywhere in the video, he stated that the uniformed black male on the ground with § 87(2)(b) “may have been me,” but that he could not say so with certainty. When asked to confirm whether the captured location was the area behind the basketball courts where he tackled § 87(2)(b) Sergeant Monestime stated that he was not sure. When asked if he recognized the chalk-marked blacktop visible in the footage, Sergeant Monestime stated he did not recall.

Sergeant Monestime thus failed to affirmatively identify himself and the takedown location and circumstances despite sufficiently clear video footage. § 87(2)(g)

§ 87(2)(b) by refusing to acknowledge what the video footage showed – the immediate moments following his apprehension of § 87(2)(b) – he avoided drawing attention to the fact that it was only himself and Police Officer Wynaar, and nobody else, who had any involvement with the pursuit and apprehension of § 87(2)(b) § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) and § 87(2)(b) have not been parties to any prior CCRB complaints.
- Sergeant Monestime has been a member of service for 13 years and has been a subject in four CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim has been filed in connection with this incident. § 87(2)(b)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Squad No.: 2

Investigator:	<u>/sprakash</u> Signature	<u>Inv. Santosh Prakash</u> Print Title & Name	<u>7/13/21</u> Date
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Squad Leader:	<u>AOA</u> Signature	<u>IM Alexander Opoku-Agyemang</u> Print Title & Name	<u>7/13/2021</u> Date
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